

599<sup>u</sup>  
A  
DECLARATION  
OF THE  
Lords and Commons  
IN  
PARLIAMENT,

Concerning  
His Majesties Proclamation,  
given at His Court at *York*, the  
27. of *May*. 1642.

With the Statute of the 7. *Edw.* 1.

---

*Die Lune, Junii. 6. 1642.*

Ordered by the Lords and Commons in Parliament,  
That this Declaration be forthwith Printed and  
Published.

*Ioh. Brown, Cleric. Parliament.*

---

LONDON,  
Printed for *Jos. Hunscott*, and *J. Wright*, 1642.

600

HARVARD COLLEGE LIBRARY  
FROM THE LIBRARY  
OF E. L. GAY  
JUNE 1, 1916

# PARLIAMENT.

His Majesty's Proclamation

Given at His Court and at the

City of London, the 7th day of

With the assent of the 7th day of

Ordered by the Lords and Commons in Parliament  
That this Declaration be forthwith Printed and  
Published.

LONDON

Printed by J. W. Mackenzie and J. W. Mackenzie

A Declaration of the Lords and  
Commons in Parliament, concerning His  
Majesties Proclamation the twenty seventh  
of May. 1642.

**T**He Lords and Commons having per-  
used His Majesties Proclamation, for-  
bidding all His Majesties Subjects,  
belonging to the Trained-Bands or  
*Militia* of this Kingdom, to rise,  
March, Muster, or exercise by vertue  
of any Order or Ordinance of one, or  
both Houses of Parliament, without consent or Warrant  
from His Majestic, upon pain of punishment, according  
to the Laws.

Do thereupon declare, That neither the Statute of the  
seventh of *Edward* the first therein vouched, nor any o-  
ther Law of this Kingdom doth restrain, or make void  
the Ordinance agreed upon by both Houses of Parliā-  
ment, for the ordering and disposing the *Militia* of the  
Kingdom in this time of extream, and imminent danger,  
nor expose His Majesties Subjects to any punishment,  
for obeying the same; Notwithstanding, That His  
Majesty hath refused to give His Consent to that Ordi-  
nance, but ought to be obeyed by the Fundamentall  
Laws of this Kingdom.

The Declaration of 7. Ed the 1. Quoted in His  
Majesties Proclamation, runneth thus.

**T**He King, to the Justices of His Bench sendeth greeting,  
Whereas of late before certain Persons deputed to treat up-  
on sundry debates, had between Vs, and certain great Men of Our  
Realm, Amongst other things it was accorded, That in Our next  
Parliament, after Provision shall be made by Vs, and the common  
Assent of the Prelates, Earls, and Barons, That in all Parlia-  
ments, Treaties, and other Assemblies which should be made in  
the Realm of England for ever, That every Man shall come  
without all force and Armour, well, and peaceably to the Honour  
of Vs, and the peace of Vs and Our Realm. And now in our next  
Parliament at Westminster, after the said Treaties, the Pre-  
lates, Earls, Barons, and the Commonalty of Our Realm there  
Assembled, to take Advice of this businesse have said, That to  
Vs it belongeth, and Our part is through Our Royall Seigniorie  
straightly to defend force of Armour, and all other force against  
Our Peace at all times when it shall please Vs, and to punish them,  
which shall do contrary according to Our Laws and Vsages of Our  
Realm.

And hereunto they are bound to ayde us, as their Sovereign  
Lord at all Seasons, when need shall be. We command you, that  
you cause these things to be read afore you in the said Bench, and  
there to be Inrolled.

Given at Westminster the thirtieth day of  
October.

The

**T**HE occasion of this Declaratiō was for the restraint of Armed Men from coming to the Parliament, to disturb the Peace of it, and is very improperly alleaged for the maintenance of such Leavies, as are now raised against the Parliament. The title of the Statute being thus, To all Parliaments, and Trearies, every man shall come without force and Arms, So that the Question is not, whether it belong to the King or no to restrain such force; But if the King shall refuse to discharge that Duty and Trust, Whether there is not a power in the two Houses, to provide for the safety of the Parliament, and Peace of the Kingdom, which is the end, for which the Ordinance concerning the *Militia* was made, and being agreeable to the scope and purpose of the Law, cannot in Reason be adjudged to be contrary to it; For although the Law do affirm it to be in the King, yet it doth not exclude those, in whom the Law hath placed a power for that purpose, As in the Courts of Justice, the Sheriffs, and other Officers and Ministers of those Courts. And as their power is derived from the King by His Patents, yet cannot it be restrained by His Majesties command, by His great Seal, or otherwise, much lesse can the Power of Parliament be concluded by His Majesties command, because the Authority thereof is of a higher, and more eminent nature, then any of those Courts.

It is acknowledged; That the King is the Fountain of Justice, and Protection, But the Acts of Justice, and Protection are not exercised in His own Person, nor depend upon His Pleasure, but by His Courts, and by His Ministers, who must do their Duty therein, though

the King in His own Person should forbid them; And therefore, if Judgements should be given by them against the Kings Will and Personall command, yet are they the Kings Judgements.

The High Court of Parliament, is not only a Court of Judicature, enabled by the Laws, to adjudge, and determine the Rights, and Liberties of the Kingdom, against such Patents, and Grants of His Majestie, as are prejudiciall thereunto; although strengthened both by His Personall command, and by His Proclamation, under the great Seal. But it is likewise a Councell to provide for the necessities, prevent the imminent dangers, and preserve the publike Peace, and safety of the Kingdom, and to declare the Kings pleasure in those things, as are requisite thereunto; and what they do herein, hath the Stamp of Royall Authority, although His Majestie seduced by evill Councell, do in His Own Person, oppose, or interrupt the same. For the Kings supream Power, and Royall Pleasure, is exercised, and declared in this high Court of Law, and Councell, after a more eminent and obligatory manner, then it can be by any personall Act or Resolution of His Own.

Seeing therefore, The Lords and Commons which are His Majesties great and highest Councell, have ordained, That for the present and necessary defence of the Realm, the Trained-Bands, and *Militia* of this Kingdom should be ordered according to that Ordinance, And that the Town of *Hull* should be committed to the custody of Sir *John Hotham*, to be preserved from the attempts of Papists and other malignant persons, who thereby might put the Kingdom into a combustion, which is so farre from being a force against the Kings peace,

peace, that it is necessary for the keeping, and securing thereof, and for that end alone is intended; and all His Majesties loving Subjects, as well by that Law, as by other Laws, are bound to be obedient thereunto; and what they do therein, is (according to that Law) to be interpreted to be done in ayd of the King, in discharge of that Trust which he is tyed to perform; and it is so farre from being lyable to punishment, that if they should refuse to do it, or be perswaded by any Commission or Command of His Majesty to do the contrary, they might justly be punished for the same, according to the Laws and Usages of the Realm: for the King, by His Sovereignty, is not enabled to destroy His people, but to protect and defend them, and the High Court of Parliament, and all other His Majesties Officers, and Ministers, ought to be subservient to that Power and Authority, which the Law hath placed in His Majesty to that purpose, though He Himself in His Own Person should neglect the same.

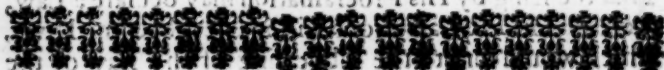
Wherefore the Lords and Commons do declare the said Proclamation to be void in Law, and of none effect, For that by the Constitution and policy of this Kingdom, the King by His Proclamation, cannot declare the Law contrary to the Judgement, and Resolution of any of the inferiour Courts of Justice, much lesse against the High Court of Parliament; for if it were admitted, That the King by His Proclamation may declare a Law, thereby His Proclamations will in effect become Laws, which would turn to the subverting of the Law of the Land, and the Rights, and Liberties of the Subjects.

And the Lords and Commons do require and command, all Constables, Petty-Constables, and all other  
His

His Majesties Officers, and Subjects whatsoever, to Muster, Levy, raise, March and Exercise, or to Summon or Warne any upon Warrant from the Lieutenants, Deputy-Lieutenants, Captains, or other Officers of the Trained Bands, and all others according to the said Ordinance of both Houses; and shall not presume to Muster, Levy, raise, March, or Exercise, by vertue of any Commission, or other Authority whatsoever, as they will answer the contrary at their perills, and in their so doing, They do further declare, That they shall be Protected by the Power and Authority of both Houses of Parliament. And that whosoever shall oppose, question, or hinder them in the execution of the said Ordinance, shall be proceeded against as violaters of the Laws, and disturbers of the Peace of the Kingdom.



*FINIS.*



Land, and the Rights, and Liberties of the Subjects.  
And the Lords and Commons do require and command, all Constables, Levy-Constables, and all other



